

REMARKS/ARGUMENTS

Declaration

Applicant has amended claims 20, 31, and 42 in order to more clearly define the present invention. Claim 25 has been canceled. Applicant expressly reserves the right to seek patent protection for the original claims, the canceled claims and/or for all other claims supported by the above-identified application in one or more related applications.

Applicant submits that the amendments to the claims and specification do not add new matter to the application, as each of these features is clearly shown in the Drawings and/or is described in the specification as originally filed.

The Examiner has stated that the declarations filed on Sept. 28, 2005 are sufficient to overcome the Alt et al. reference with respect to claims directed to the embodiment shown in Fig. 3B. The Examiner also has stated that the declarations are not sufficient to overcome the Alt et al. reference with respect to the embodiment shown in Fig. 3A.

35 U.S.C. §102 and §103 Rejections

Claim 20-23, 28, 31 and 42 have been rejected under 35 U.S.C. §102(b) as being anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Sawyer (5, 108,417). Applicant traverses this rejection as it pertains to the claims as amended.

Independent claim 20 as presently amended is directed to a stent comprising at least one strut, the at least one strut having a transverse cross section, the transverse cross section having a substantially flat top circumferential side and a substantially flat bottom circumferential side, the top and bottom sides being joined together through a substantially continuously curved left side and a substantially continuously curved right side.

Independent claim 31 as presently amended is directed to a system for treating a vessel lumen comprising a stent having a lumen therethrough; and a catheter at least partially extending through the lumen; the stent being fashioned from at least one strut, the at least one strut having a transverse cross section, the transverse cross section having a substantially flat top circumferential side and a substantially flat bottom circumferential side joined together through a substantially continuously curved left side and a substantially continuously curved right side.

Independent claim 42 as presently amended is directed to a stent comprising at least one strut having a transverse cross section, the transverse cross section having a substantially flat top side and a substantially flat bottom side joined together through a smooth rounded left side and a smooth rounded right side.

Applicant submits that Sawyer does not disclose, teach or suggest the present invention as now claimed. For example, Sawyer does not disclose, teach or even suggest a stent, nor a system comprising a stent, wherein the stent comprises a strut having a transverse cross section having a substantially flat top circumferential side and a substantially flat bottom circumferential side joined together through a substantially continuously curved left side and a substantially continuously curved right side, as recited in claims 20 and 31. Further, Sawyer does not disclose, teach or even suggest a stent comprising at least one strut having a transverse cross section having a substantially flat top side and a substantially flat bottom side joined together through a smooth rounded left side and a smooth rounded right side, as recited in claim 42.

The Examiner states that Sawyer shows a strut, for example in Fig. 2 beneath the "A" arrow, which has a cross section shown to include a flat top side and a flat bottom side and a left substantially curved side and a right substantially curved side. In response, the applicant has amended the independent claims to clarify that the transverse cross section of the strut of the presently claimed stents and systems are defined by a substantially flat top circumferential side and a substantially flat bottom circumferential side which are joined together through a substantially continuously curved left side and a substantially continuously curved right side (claims 20 and 31) or are joined together through a smooth rounded left side and a smooth rounded right side (claim 36). Sawyer does not teach this feature of the presently claimed invention

In view of the above, applicant submits that the present invention as now claimed is not anticipated by and is not obvious over Sawyer under 35 U.S.C. 102 and 103.

Claims 24, 25, and 36 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Sawyer in view of Woolff (5,104,404). Claim 32 has been rejected under 35 U.S.C. 103(a) as being unpatentable over Sawyer.

In response, applicant submits that Wolff does not provide the deficiencies apparent in Sawyer as discussed hereinabove. For example, Wolff does not teach a stent, or a system comprising a stent, which comprises at least one strut having a transverse cross section having a

substantially flat top side and a substantially flat bottom side joined together through a substantially continuously curved left side and a substantially continuously curved right side, as claimed in claims 20 and 31.

In view of the above, applicant submits that the present claims are patentable over Sawyer even in view of Wolff, under 35 U.S.C. 103.

Claim 42 has been rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's disclosure in view of Alt et al.

In response, applicant has amended claim 42 to more clearly define this embodiment of the invention shown in Fig. 3B. Again, applicant has amended claim 42 directed to a stent comprising at least one strut having a transverse cross section, the transverse cross section having a substantially flat top side and a substantially flat bottom side joined together through a smooth rounded left side and a smooth rounded right side. Alt does not show, teach or even suggest the invention recited in amended claim 42, e.g. the embodiment shown in Fig. 3B.

In view of the above, applicant submits that amended claim 42 is patentable over applicant's disclosure in view of Alt under 35 U.S.C. 103(b).

Conclusion

By the foregoing, all objections and grounds for rejection are believed to have been overcome. An issuance of a Notice of Allowance is earnestly solicited. The Commissioner is hereby authorized to charge any additional fees which may be required under 37 C.F.R. 1.17, or credit any overpayment, to Deposit Account No. 01-2525. If the Examiner feels that a telephone conference would in any way expedite the prosecution of the application, please do not hesitate to call the undersigned at telephone (707) 566-1746.

Respectfully submitted,

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